

## REMARKS

Applicant has studied the Office Action dated May 11, 2006 and has amended claims 1, 7 and 8. Claims 1-20 are pending. Claims 1, 7, 8 and 11 are independent claims. No new matter has been entered.

It is submitted that the application, as amended, is in condition for allowance. Reconsideration and reexamination are respectfully requested.

### Amendments to Claims

Claim 1 has been amended to more clearly describe the invention. No new matter has been added as the amendment has support in the specification and drawings as originally submitted. The amendment is not related to patentability.

### § 103 Rejections

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tanaka et al. ("Tanaka" U.S. Pat No. 5,912,869) in view of Cho (U.S. Pat No. 5,375,249). This rejection is respectfully traversed.

It is respectfully noted that the Federal Circuit has provided that an Examiner must establish a case of prima facie obviousness. Otherwise the rejection is incorrect and must be overturned. As the court recently stated in In re Rijkaert, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993):

It is further respectfully noted that "In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. 'A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.' If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned." (citations omitted.)

With regard to independent claims 1, 7, 8 and 11, it is respectfully noted that independent claims 1 and 8 have amended to recite the limitation already recited in claims 7 and 11 that the at least one merging bit is followed by a modulation-coded unit

block. It is specifically submitted that the combination of the Tanaka and Cho references fail to disclose this limitation.

It is respectfully noted that the Examiner indicates, at paragraph 2 on pages 5 and 7 of the Office action, respectively, with respect to claims 7 and 11, that Tanaka "does not specifically disclose ... at least one merging bit, follow[ed] by modulation-coded input data block" and Tanaka "does not disclose ... at least one merging bit, followed by the modulation-coded present data block." It is further respectfully noted that the Examiner asserts col. 7, lines 11-16 and 26-29 of Cho as disclosing these limitations. Applicant respectfully disagrees with the Examiner's interpretation of Cho.

It is respectfully noted that the present invention is directed to adding at least one merging bit followed by each modulation-coded unit block such that the merging bits are added between modulation-coded unit blocks, where the modulation-coded unit block comprises a plurality of bytes. It is further respectfully noted that the present invention is directed to adding the merging bits "in block unit" and that adding the merging bits "in block unit" used in modulation of the digital data improves the code rate and DC compression ability. See specification at page 8, line 18, to page 9, line 12. Moreover, it is respectfully noted that independent claims 1, 7, 8 and 11 claim this improvement over the related art by reciting at least one merging bit that is followed by a modulation-coded unit block.

On the other hand, it is respectfully submitted that Cho merely discloses that merging bit of 3 bit is added to a modulated symbol. It is respectfully noted that Cho discloses only "combining the merge bit selected ... with the present symbol." Col. 7, ll 28-29. It is further respectfully submitted that there is no disclosure in Cho of adding the merging bits "in block unit" or of at least one merging bit that is followed by a modulation-coded unit block, as recited in claims 1, 7, 8 and 11.

Therefore, it is respectfully asserted that claims 1, 7, 8 and 11 are allowable over the cited combination of references. It is further respectfully asserted that claims 2-6, which depend from claim 1, claims 15 and 16, which depend from claim 7, claims 9, 10 and 17-20, which depend from claim 8, and claims 12-14, which depend from claim 11, also are allowable over the cited combination of references.

## CONCLUSION

In light of the above remarks, Applicant submits that claims 1-20 of the present application are in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

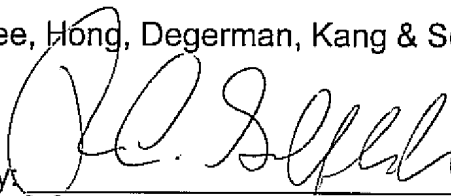
No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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